IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 15267 of 2004

Between:

1. G.B.V.D.Kiran, S/o.G.Seshagiri Rao,
D/No.23-21-20, Mudigondavari Street, Satyanarayanapuram, Vijayawada Krishna Dist.
2. G.Seshagiri Rao, S/o.Venkata Swamy,
D.No.23-21-20, Mudigondavari Street, Satyanarayanapuram, Vijayawada, Krishna Dist.

..... PETITIONERS

AND

1.The Vysya Bank Ltd., Vijayawada.
2.The Hon'ble Debts Recovery Tribunal, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly a Writ of Mandamus, declaring the order passed in LR.No.4081/ 2004 in O.A.No.237/2002 before the 2nd Respondent dated 6-7-2004 as violative of the settled principles of law besides directing the 2nd respondent to give an opportunity to decide the O.A.No.237/2002 on merits.

Counsel for the Petitioner: Mr.V.S.R.ANJANEYALU

Counsel for the Respondents: None appeared.

The Court made the following :

ORAL ORDER

(per The Honourable Sri Devinder Gupta, the Chief Justice)

Petitioners are respondents in O.A.No.237 of 2002 on the record of the Debts Recovery Tribunal, Visakhapatnam and the said O.A. was pending trial. Petitioners were proceeded against ex parte on 25.6.2004 and O.A. was posted to 6.7.2004 for orders. It is petitioners case that on 6.7.2004, an application under Order IX Rule 1 C.P.C. was filed for setting aside the ex parte order dated: 25.6.2004. But, the said application was rejected on the ground that O.A. itself has been allowed, and, thus, they question the order rejecting the application filed under Order IX Rule 1 C.P.C.

We see no force in the submission made and there is no ground to set aside the order, since the main O.A. has been decided. The remedy of the petitioners would be to challenge the order passed in O.A. wherein they can also challenge order passed on 25.6.2004. With leave and liberty granted to the petitioners to challenge the orders passed in O.A. and the ex parte order before appropriate forum, the Writ Petition is dismissed. No costs.

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DEVINDER GUPTA, C.J.

1.9.2004

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C.V.RAMULU, J.

VR.

To

1.The Vysya Bank Ltd., Vijayawada.
2.The Presiding Officer, Debts Recovery Tribunal, Visakhapatnam.

3. Two CD copies.